

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-052-00532R

Parcel No. 819451007

Alan Peterson,  
Appellant,

v.

Johnson County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 5, 2016. Alan Peterson was self-represented. County Attorney Andrew Chappell represented the Johnson County Board of Review.

Peterson is the owner of a residential, one-story home located at 2960 Orchard View Lane NE, Iowa City. It was built in 2003 and has 1898 square feet of above-grade finish; a full, walkout basement with 1100 square feet of finish; a deck; a patio; a gazebo; and an open porch. It also has a three-car attached garage, which features a 554-square-foot basement accessed at the rear of the property by an overhead door; the use of this space is for yard equipment storage. The site is 1.71 acres

The property's January 1, 2015, assessment was \$411,100, allocated as \$73,100 in land value, \$338,000 in improvement value. Peterson protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property; and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b).

The Board of Review denied the petition. Peterson then appealed to PAAB.

## Findings of Fact

The Petersons clarified at hearing that their claim before PAAB is that the subject property is assessed for more than authorized by law; and they assert the correct assessed value is \$383,000. Alan Peterson and his wife Karen, a realtor, submitted three properties they considered in support of their claim. The following chart is a summary of those properties.

	2015 Assessed Value	Gross Living Area (GLA)	Basement Finish	AV/SP	Sale Date	Sale Price	SP/SF
Subject	\$411,100	1898	1100	\$216.60	N/A	N/A	N/A
4778 Apple Valley Dr	\$352,500	1979	990	\$178.12	Apr-12	\$390,000	\$197.07
4787 Apple Valley Dr	\$403,000	1927	1659	\$209.13	Feb-15	\$339,000	\$175.92
3122 Pond Ln	\$308,200	1807	903	\$170.56	Jul-13	\$282,000	\$156.06

The record includes a multiple listing sheet (MLS) and property record web-card printout for each of the submitted properties. The Petersons did not adjust these properties for differences compared to the subject to arrive at an opinion of value.

First, we note two of the sales are older, occurring in early 2012 and mid-2013; therefore, we find they are not reliable indicators of market value for January 1, 2015. Moreover, the MLS for 4778 Apple Valley Drive indicates it has 1560 square feet of basement finish, but the assessment record lists only 990 square feet of finish. Similarly, the MLS for 3122 Pond Lane indicates it has 1677 square feet of finish, but the assessment record lists only 903 square feet of finish.

Karen testified that the property at 4787 Apple Valley Drive sold from foreclosure; and the MLS listing corroborates her testimony. Moreover, the purchaser was also the selling agent in the transaction. Because the property sold as the result of a foreclosure, the sales price would not be considered a normal transaction to use for assessment purposes. Iowa Code § 441.21(1)(b).

Karen further testified there were sales and listings in the subject's neighborhood; however, the Petersons did not submit any information these other

properties. In Karen's opinion as a real estate agent, she asserts the subject property's value is something less than \$400,000.

Both Petersons also testified that they believe the unfinished basement garage should be given minimal value because it is only used for garden equipment.

Additionally, they also assert the gazebo should not be included in the assessment because it is personal property not permanently attached to the site. Karen explained that in 2009, an appraiser for the Board of Review identified the gazebo as personal property, but it is still included in their assessment.

The record includes a May 2015 letter from the Assessor to the Board of Review. The letter explains assessments were increased because recent sales prices indicated assessments were below market value. The letter includes six properties that sold in 2015; after the 2015 revaluation, an assessment/sales ratio analysis indicates assessments are in-line with 2015 sales. According to the Board of Review, the Assessor's Office included this information based on the Petersons' original inequity claim.

Despite the intent of these sales to be used as equity comparables, Karen was critical of them from a market value perspective. In her opinion, they were not comparable properties because some were two-story homes compared to the subject's one-story design, and others were superior in quality to the subject property. She was also critical because these properties are not situated on a private road like the subject, which requires homeowner's dues for maintenance.

Notwithstanding her criticism that these properties were not comparable or that the Board of Review was not offering them as market comparables, Karen analyzed the sales on a price per-square-foot basis, including all finished area in her calculations. (Ex. 1). First, it is not typical methodology to include basement finish when analyzing properties on a per-square-foot basis. Moreover, because they were not adjusted for differences to arrive at an opinion of market value, they are not reliable indicators of value for the subject property.

## Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The sales the submitted were older sales and one was a foreclosure. Moreover, they were not adjusted to arrive at a reliable opinion of value for the subject property. The Petersons submitted no other evidence of market value, such as a cost analysis or an appraisal. For these reasons, we find the Petersons have failed to show their property is assessed for more than authorized by law.

## Order

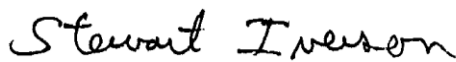
IT IS THEREFORE ORDERED that the Johnson County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

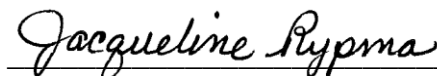
Dated this 28th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Alan Peterson

Andrew Chappell